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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,828	02/23/2004	Tatsuzo Nakamura	HAYAK-11	5439

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EXAMINER

KAHELIN, MICHAEL WILLIAM

ART UNIT PAPER NUMBER

3762

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/782,828

Applicant(s)

NAKAMURA, TATSUZO

Examiner

Michael Kahelin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11182004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 11/18/2004 is noted. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract contains the legal phraseology "said".

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

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As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
  - (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
  - (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
  - (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
  - (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
  - (f) BACKGROUND OF THE INVENTION.
    - (1) Field of the Invention.
    - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
  - (g) BRIEF SUMMARY OF THE INVENTION.
  - (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
  - (i) DETAILED DESCRIPTION OF THE INVENTION.
  - (j) CLAIM OR CLAIMS (commencing on a separate sheet).
  - (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
  - (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).
4. The disclosure is objected to because of the following informalities: delete "or" (page 1, line 23), "of" should be "on" (page 1, line 29), "suites" should be "suits" (page 2, line 19), "high(low)" should read "high/low" (page 2, line 27), "case where the protrusion is consisted of" should read "cases where the protrusion consists of" (page 4, lines 21 and 27), "cases" should read "case" (page 4, line 23), "high(low)" should read "high/low" (page 6, lines 8 and 18), "figure" should read "figures" (page 6, line 31), "high(low)"

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should read "high/low" (page 7, line 18 and page 8, line 27), "does" should read "do" (page 8, line 30), "high(low)" should read "high/low" (page 9, line 12), and delete "an" (page 9, line 23).

Appropriate correction is required.

5. Claim 6 is objected to because of the following informalities: "body suites" should read "body suits". Appropriate correction is required.

6. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Mechanical and Electrical Applicator for Acupressure Treatment".

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. In claim 1, the word "it" is indefinite because there is not an explicit description to what "it" refers.

10. In claims 1 and 5, the linking phrase "constitutes of" is vague because it is not clear whether this is an open or closed-type linking phrase. It is recommended that Applicant uses either "comprising" or "comprised of".

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11. Claims 5 and 6 recite the limitation "supporting material". There is insufficient antecedent basis for this limitation in the claims because there is no "material" in the independent claim.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Wappler (1,422,396).

14. In regards to claim 1, Wappler discloses a therapeutic instrument which can be used to apply electrical and mechanical or mechanical only stimuli to the human body (Fig. 4). Please note that the electrical leads are removable via element 11 in figure 1, providing mechanical-only stimulation. The device comprises a supporting medium (Fig. 5, element 17), conductive projections (Fig. 5, element 18) with a hole on the bottom face (Fig. 5, element 20), which accepts an electrode terminal (Fig. 5, element 21).

15. In regards to claim 2, the mechanical stimuli are pressure to the body skin surface (Fig. 4).

16. In regards to claim 3, the stimuli are high frequency stimuli (line 36).

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17. In regards to claim 4, the hole (Fig. 5, element 20) has a larger diameter at the deep portion than at the entry of the hole.

18. In regards to claim 5, the protrusion comprises a convex part (Fig. 5, right side of element 18) and a base part (Fig. 5, left side of element 18), holding the supporting material (Fig. 5, element 17).

19. In regards to claim 6, the supporting material is a supporter.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Many examples of mechanical/electrical stimulators are provided.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Kahelin whose telephone number is (571)272-8688. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571)272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MWK

^ U  
GEORGE R. EVANISKO  
PRIMARY EXAMINER

9/12/5